POST-CRISIS REFORMS

Some points to ponder

By

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بسم الله الرحمن الرحيم

الحمد لله رب العالمين، والصلوة والسلام على سيدنا ومولانا محمد وعلى آله وأصحابه أجمعين وعلى كل من تبعهم بإحسان إلى يوم الدين-أمابعد

Post Crisis Reforms:

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In modern economics, we are used to a purely materialistic and secular approach that does not allow religious concepts to interfere with its theories and concepts, on the premise that economy is outside the domain of religion. It is, however, an interesting irony that every dollar note has the admission: "*In God we trust*", but when it comes to develop theories to earn dollars or to distribute or spend them, trust is placed only on human ideas based on personal assessments; God is held totally out of picture, as being irrelevant to economic activities!!!

It is perhaps for the first time that, as an aftermath of the present financial crisis, when different quarters are coming up with different suggestions to solve the problem, the 'World Economic Forum' has invited representatives of religion to give their input to the initiative of reshaping the economic set-up on the basis of values, principles and fresh thoughts. This commendable initiative deserves full support from religious circles. As a humble student of Islamic disciplines, and particularly of Islamic economic principles, I would like to highlight some basic points, derived from Islamic economic precepts, that I believe, are essential for independent and fresh consideration while seeking solutions to our economic problems.

Before proceeding further, it is necessary to clarify two points here:

1- When we speak of Islamic Finance or Islamic economic principles, it is generally assumed that these principles are emphasized by Muslim scholars only to satisfy the religious requirement of Muslims, or that they are meant only for Muslims to the exclusion of all others. This is an incorrect assumption. Although Islam is basically represented by a set of beliefs, the benefits of its social, political and economic principles are not restricted to Muslims; they are meant for the common good of humanity at large.
2- What this article is going to contend may look too radical in the present environment, dominated by conventional economic thoughts, but if we are seeking a comprehensive reform in our present system which has been proven by empirical evidence to be faulty, we should not be afraid of any suggestion of radical change, so far as it is based on sound and strong arguments. The universal nature of the present crisis needs universal change in our present financial set up; a patch up solution to repair only minor wear and tear cannot work. We need an overhaul of our economic system that may redesign it on the basis of true values and sound principles that make it equitable, well-balanced and inherently immune from turmoil.

What has encouraged me to present this article are the valuable remarks of the Chairman of 'The World Economic Forum' in its last annual meeting, specially, his following words;

> "Today we have reached a tipping point, which leaves us with only one choice: change or face the continued decline and misery."

Since change is necessary, no idea for a global change should be beyond the scope of fresh thinking. This article cannot discuss all the details of the reform needed in our present system; however, some fundamental points are being presented for serious consideration.

1-Market Economy and just distribution

One of the basic principles emphasized by the Holy Qur'an about the objectives of an economic system is that wealth produced in a society must be distributed in a just and fair manner, so that it may not be concentrated in the hands of a few people. The Holy Qur'an says:

كي لا يكون دولة بين الأغنياء منكم

"so that it may not circulate only between the rich among you." (59:7)

While designing a system for economic activities, this fundamental objective must be given foremost importance. Market economy, on the other hand, was blamed by many economists as being unjust in distribution of wealth in the world. Although the planned economy suggested by its opponents did not prove to be workable, the blame given to the market economy was not essentially wrong. The proponents of market economy should have reviewed their system to eliminate basic causes of unjust distribution. It is a pity, however, that when the concept of planned economy failed in practice, the proponents of the market economy rejoiced the occasion as their victory, both on political and economic fronts. Some of them were so excited with the fall of the planned economy that they declared their system as the only eternal one, and predicted that no better system would be forthcoming. This excitement overlooked the fact that some

aspects of the criticism originally directed to free market economy were not baseless; there were horrible gaps between the rich and the poor all over the world, which remained existent all the time, even after the fall of the planned economy. It was, no doubt, wrong to deny the natural operation of market forces, but in order to make them operate in a smooth and equitable manner, it was imperative to subject them to certain limits that would safeguard the interests of all human beings on an equitable basis. Although capitalist countries imposed certain rules and regulations on the market, yet they always remained short of conceptual reforms.

When thinking about an economy as a whole, it is not enough to concentrate on its numerical growth only, nor on the wheel of production running with full vigor and with the best possible speed. It is of much more importance to make the system of distribution of wealth really equitable to accommodate the economic needs of all segments of the society on fair basis. It required some conceptual restrictions on market operations, which were not given serious consideration. The result is that, despite all rules and regulations, the wealth produced by markets is still concentrated between some rich people only, even in well established countries, like the United States. G. William Domhoff has summarized this concentration in the following words:

> "In the United States wealth is highly concentrated in a relatively few hands. As of 2007, the top 1% of households (the upper class) owned 34.6% of all privately held wealth, and the next 19% (the managerial, professional and small business stratum) had 50.5%, which means that just 20% of the people owned a remarkable 85%, leaving only 15% of the wealth for the bottom 80% (wage and salary workers). In terms of financial wealth

(total net worth minus the value of one's home), the top 1% of households had an even greater share: 42.7%."[1]

Obviously the position in developing and under developed countries is even worse. This uneven and unjust system of distribution needs to be reformed on a conceptual basis. Market forces have a vital role in a market economy, if they are left to operate in their natural and smooth way. But there are certain factors in our present system that create monopolies for rich persons, and in turn obstruct the natural function of market forces to reach a real equilibrium. There are some other factors that give birth to a totally artificial mechanism of supply and demand which never reflects the real economic needs, and contribute nothing but a disturbance in smooth operation of real economy. In short, we need to set values and principles that may remove systemic errors from our present set up.

2-Profit Motive and Greed

Imam Hasan Al-Basri (رحمة الله عليه), a renowned scholar of the first century of Islamic history, has explained the nature of money in a beautiful sentence. He says,

> "Money is such a companion of yours that it does not benefit you, unless it leaves you."[2]

This brief, but robust, comment embodies two basic concepts that are very essential to give the right direction to economic activities:

1-Money is a means to achieve a certain objective, and not the objective itself.

2-Money in itself has no intrinsic utility.

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[1] http://sociology.ucsc.edu/whorulesamerica/power/wealth.html (updated October 2009)
[2] Al-Zahabi, Siyar A;lam-al-Nubala' v.4 p.576, Beirut

Let us discuss these two concepts in the backdrop of the present economic situation.

Although the policy of '*Laissez faire*' is no longer popular even in capitalist countries, the role of 'profit motive' is of vital importance in a market economy. Had it been within the limits, it would not have created problems. But practically it often turns into unbridled freedom to make as much money as possible, even at the cost of others. The limitations imposed by different governments were not able to make a visible difference between 'profit motive' and 'greed of wealth'. In the absence of any spiritual and moral objective of life, when one believes that 'profit motive' is the driving force of an economy, he tends to take 'profit' as the sole objective of life in its own right, and falls prey to an unbounded greed to accumulate as much wealth as he can through whatever means. It makes him happy to keep counting the increasing number of the coins or financial papers he owns, oblivious of what benefit he is actually drawing from it in real terms. The Holy Qur'an refers to such a person in the following words:

> "Woe to every backbiter, derider, who accumulates wealth and counts it. He thinks that his wealth has made him eternal." (Al-Humazah: 1-2)

Once a person is enchanted by this greed, no amount of money or wealth can make him content, nor can anything satisfy his thirst for more money. He keeps on maximizing the quantity of his holdings through fair or unfair means, until he departs from this world with empty hands, leaving all the fruits of his endeavor to his inheritors. The Holy Qur'an says:

> "You are distracted by mutual competition in amassing (maximum wealth) until you reach the graves."(Al-Takathur:1-2)

And the Holy Prophet Muhammad صلى الله عليه وسلم has said,

> "If a son of Adam owns two valleys of gold, he would strive for having a third one; it is only dust (of the grave) that may fill the belly of the son of Adam."[3]

Although all economic activities require a desire for some sort of wealth, what is condemned is not a legitimate desire of earning money through fair means to satisfy one's needs. What is condemned is the greed of wealth that is unable to see beyond one's selfish desires, and does not differentiate between right and wrong. According to Islamic beliefs, life is not restricted to the present one; there is another life after one's death in which he has to give full account of what he did in this world. Greed is detrimental to that eternal life, the betterment of which should be the ultimate goal of human beings. But even if looked at from the point of view of this world only, this type of greed brings no good even to our present life. This is firstly because greed is always collaborated by selfishness that has no concern about the collective interests of the society, and prompts one to make profits at the cost of the whole community; and secondly, it makes oneself oblivious of the fact that money is created to serve human beings, and human beings are not created to serve money. Money is meant to get comfort of body and soul, but if the whole comfort is lost in complexities of earning maximum amounts of money, the very purpose for which money was actually meant is totally defeated. Instead of getting comfort of body and soul, over-involvement in making more and more money snatches all comforts away from one's life, leaving him in perpetual worries and tensions. It is the stage about which the Holy Qur'an says that wealth itself turns into a chastisement. (9:55)

[3] Sahih Al-Bukhari, Riqaq, (Book 81, Chapter 10, Hadith 6436)

In short, the evils of greed are so evident that there is no one who takes greed as an admirable quality; everyone condemns greed and greedy persons, but the difficulty is that no one admits that he is greedy, or that his acts are based on greed. The problem thus lies in the identification of greed, because it is an ambiguous term which may be interpreted in different ways. Greed itself may coin its own interpretations that may ensure one that he or she is not greedy.

It shows that mere condemnation of a general nature is not sufficient to curb this evil. There should be some hard and fast rules and principles that may govern our attitude to eradicate or at least alleviate potentials of greedy actions.

3- The Nature of Money

The second concept about money, as embodied in the maxim quoted above from Imam Hasan Al-Basri, is that it has no intrinsic usufruct or utility. That is why it benefits us only when it leaves us, that is, when we pass it on to another person as a price for a thing that has intrinsic utility. It is created only as a medium of exchange and as a measure of value. This is a very important concept, negligence of which has created systemic errors in our financial set-up.

Let us understand it in its full perspective.

Modern economists are unanimous on the point that money is a medium of exchange and a measure of value, but according to my limited study, no one has discussed this concept in a philosophical perspective with all its logical implications more than Imam Al-Ghazali, (d. 505 AH) a genius philosopher of the twelfth century CE. It is pertinent to present his analysis in his own words here. He says,

> "The creation of dirhams and dinars (money) is one of the blessings of Allah…. They are stones having no intrinsic

usufruct or utility, but all human beings need them because every body needs a large number of commodities for his eating, wearing etc, and often he does not have what he needs and does have what he needs not…. Therefore, the transactions of exchange are inevitable. But there must be a measure on the basis of which price can be determined, because the exchanged commodities are neither of the same type, nor of the same measure which can determine how much quantity of one commodity is a just price for another. Therefore, all these commodities need a mediator to judge their exact value… Allah Almighty has, therefore, created dirhams and dinars (money) as judges and mediators between all commodities so that all objects of wealth are measured through them…. , and their being the measure of value of all commodities is based on the fact that they are not an objective in themselves. Had they been an objective in themselves, one could have a specific purpose for keeping them, which might have given them more importance according to his intention, while the one who had no such purpose would have not given them such importance, and thus the whole system would have been disturbed. That is why Allah has created them, so that they may be circulated between hands and act as a fair judge between different commodities and work as a medium to acquire other things…. So, the one who owns them is as if he owns everything, unlike the one who owns a cloth, because he owns only a cloth, therefore, if he needs food, the owner of the food may not be interested in exchanging his food for cloth, because he may need an animal for example. Therefore, there was needed a thing which in its appearance is nothing, but in its essence is everything. The thing which has no

particular form may have different forms in relation to other things like a mirror which has no color, but it reflects every color. The same is the case of money. It is not an objective in itself, but it is an instrument to lead to all objectives….

So, the one who is using money in a manner contrary to its basic purpose is, in fact, disregarding the blessings of Allah. Consequently, whoever hoards money is doing injustice to it and is defeating its actual purpose. He is like the one who detains a ruler in a prison….

And whoever effects the transactions of interest on money is, in fact, discarding the blessing of Allah, and is committing injustice, because money is created for some other things, not for itself. So, the one who has started trading in money itself has made it an objective, contrary to the original wisdom behind its creation, because it is injustice to use money for a purpose other than what it was created for…. If it is allowed for him to trade in money itself, money will become his ultimate goal, and will remain detained with him like hoarded money. And imprisoning a ruler or restricting a postman from conveying messages is nothing but injustice."[4]

The basic concept that money is only a medium exchange and a measure of value is admitted by all the economists who came after Imam Al-Ghazali, but unfortunately most of them did not take the concept to its logical end. Despite accepting it as a medium of exchange, they have treated it as a commodity, overlooking the basic differences in the natures of money and commodity, which may be summarized in the following points:

[4] Al-Ghazali, Ihya'ul-uloom, v.4, p.348, Beirut 1997

(a) Money has no intrinsic utility; it cannot be utilized in direct fulfillment of human needs. It can only be used for acquiring some goods or services. A commodity, on the other hand, has intrinsic utility and can be utilized directly without exchanging it for some other thing.

(b) The commodities can be of different qualities while money has no quality except that it is a measure of value or a medium of exchange. Therefore, all the units of money of the same denomination, are hundred percent equal to each other. An old and dirty note of Rs.1000/= has the same value as a brand new note of Rs.1000/=.

(c) In commodities, the transactions of sale and purchase are effected on an identified particular commodity. If "A" has purchased a particular car by pin-pointing it, and the seller has agreed, he deserves to receive the same car. The seller cannot compel him to take the delivery of another car, even though it is of the same type or quality.

Money, on the contrary, cannot be pin-pointed in a transaction of exchange. If "A" has purchased a commodity from "B" by showing him a particular note of Rs.1000/- he can still pay him another note of the same domination.

Apart from these points, it is not logically possible to hold money as a commodity, because commodities are classified into two categories only: 'consumption goods' and 'productive goods'; money does not fall in either of the two. That it is not a 'consumption good' is obvious, because it has no intrinsic utility. It is not even a 'productive good', because it produces nothing. Those who have categorized it as such could not substantiate their claim on any

sound argument. Ludwig Von mises, an economist of our time, after discussing these arguments, has observed as follows:

> "It is true that the majority of economists reckon money among production goods. Nevertheless, arguments from authority are invalid; the proof of a theory is in its reasoning, not in its sponsorship; and with all due respect for the masters, it must be said that they have not justified their position very thoroughly in this matter….Regarded from this point of view, those goods that are employed as money are indeed what Adam Smith called them, "dead stock, which…produce nothing."

The author has then expressed his inclination towards Kien's theory that money is neither a 'consumption good' nor a 'production good'; it is a medium of exchange. [5]

Once it is conceded that money is not a commodity, the logical result should have been that it is a medium of trade and not an object of trade itself, especially when it is exchanged for another piece of money of the same denomination, nor is it supposed to generate profits, unless exchanged for a commodity. But many economists despite accepting it as a medium of exchange, failed to reach its logical consequence and took it as an instrument giving birth to more money on a daily basis. Imam Al-Ghazali, who seems to be the pioneer of the theory of 'medium of exchange' has, on the other hand, taken the theory to its logical end, when he said:

> "So, the one who started trading in money itself has made it an objective contrary to the original wisdom behind its creation…if it is allowed for him to trade in money, money becomes his

[5] Ludwig Von Mises: "The Theory of Money And Credit" Liberty Classics Indianapolis, 1980, pp. 95 and 102

> ultimate goal and will remain detained with him like hoarded money."[6]

This is also the philosophical basis of the prohibition of interest, because usury or interest transactions are a form of trading in money itself; there is no real commodity involved. Interest is charged on lending money only, which is so vehemently prohibited by most of the divine books in general, and by the Holy Qur'an in particular. The Holy Qur'an says:

> "Those who take *riba* (usury or interest) will not stand but as stands the one whom the demon has driven crazy by his touch. That is because they say' "Sale is but like *riba*", while Allah has permitted sale and prohibited riba. (2:275)
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> "Allah destroys *riba* and nourishes charity." (2:276)
>
> "O you who believe, fear Allah, and and give up what still remains of riba, if you are believers. But if you do not, then listen to the declaration of war from Allah and His messenger. However, if you repent, yours is your principal. Neither wrong, nor be wronged." (2: 278-279)
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> "O you who believe, do not eat up the amounts acquired through *riba*, (usury or interest) doubled and multiplied." (3:130)
>
> "And whatever riba (interest) you give, so that it may increase in the wealth of the people, it does not increase with Allah." (30:39)

Even in the Old Testament of the Bible, there are clear texts to prohibit usury or interest.

> "Thou shall not lend upon usury to thy brother; usury of money, usury of victuals, usury of any thing that is lent upon usury". [Deuteronomy 23:19]

6 Al-Ghazali, Op cit

"Lord, who shall abide in thy tabernacle? Who shall dwell in thy holy hill? He that walketh uprightly, and worketh righteousness and speaketh the truth in his heart. He that putteth not out of his money to usury, nor taketh reward against the innocent." [Psalms 15:1,2,5]

"He that by usury and unjust gain increaseth his substance, he shall gather it for him that will pity the poor". [Proverbs 28:8]

"Then I consulted with myself, and I rebuked the nobles and rulers, and said unto them. Ye exact usury, every one of his brother. And I set a great assembly against them." [Nehemiah 5:7]

"He that hath not given forth upon usury, neither hath taken any increase, that hath withdrawn his hand from iniquity, hath executed true judgment between man and man. Hath walked in my statues, and hath kept my judgments, to deal truly, he is just. He shall surely live, said the Lord God". [Ezekiel 18:8,9]

"In thee have they taken gifts to shed blood; thou hast taken usury and increase, and though hast greedily gained of thy neighbors by extortion, and hast forgotten me, said the Lord God." [Ezekiel 22:12]

These divine injunctions were very clear to establish the principle that:

(a) Money (of the same denomination) is not meant to be traded as commodities, and it is not allowed to make money out of money only, unless it is used as a medium of real trade.

(b) If, for exceptional reasons, money has to be exchanged for money of the same denomination, or it is borrowed, the payment on both sides must be equal, so that it is not used for the purpose it is not meant for.

But when the initiative of making money out of money was supported by the modern banking system, and the Scriptures stood in its way, the theory of difference between 'usury' and 'interest' was invented, and it was claimed that the prohibition should be restricted only to the former, and the latter should be held an innocent and benign transaction. Once this hurdle is crossed, it opened the gate for ever-growing universe of debt-based financial transactions that have no connection with real economy at all. It gave birth to paper money at the first instance; then the paper money deposited with banks created another imaginary species presumed by the 'fractional reserve system' to be money, which exceeded the amount of real currencies. Then came the financial papers (representing loans advanced by non-banking entities on the basis of interest) and generated a discounting market. Then the lure for easy money invented derivatives in the form of Options, Futures, Swaps and a host of other innovations. In the late twentieth century a mathematical science of 'financial engineering' was discovered which multiplied the indiscriminate use of derivatives in a complex fashion not understandable even to the experts of the field. These mysterious transactions thus crossed all bounds and increased the supply of fictitious money to an unbelievable extent, that is, twelve times more than the collective GDP of the entire world!!!

The worth of total derivatives is reported to be US$ 741.1 trillion in 2008,[7] while the total GDP of the entire world was only 60.6 trillion.[8] It means that the worth of derivatives is twelve times more than the gross products of all the countries of the globe. How big is the number of 741.1 trillion (741100, 000, 000, 000)? When, in 1996, the worth of derivatives was only 64 trillion, Richard Thomson had remarked:

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[7] Source: BIS. ORG

[8] Source: World Bank, World Development Indicators.

> "How do you imagine a number that big? You could say that if you laid all those dollar bills end to end, they would stretch from here to the sun sixty six times, or to the moon 25, 900 times."[9]

Now calculate if the number has grown in 2008 to 741 trillion, how many times the dollar notes may stretch to the sun or moon!!!

Even the currency issued in the form of debt-ridden notes is now a negligible component of the total money supply of the world. All the rest is nothing but numbers fed in computers, and in reality a bubble created by complex financial deals that have nothing to do with real economy. This is exactly what Imam Al-Ghazali had predicted nine hundred years ago, when he insisted that money should not be taken as an object of trade. While discussing the evil consequences of trading in money, he had remarked:

> "*Riba* (interest) is prohibited because it prevents people from undertaking real economic activities. This is because when a person having money is allowed to earn more money on the basis of interest, either in spot or deferred transactions, it becomes easy for him to earn more money on the basis of interest without bothering himself to take pains in real economic activities. This leads to hampering the real interests of humanity, because the interests of humanity cannot be safeguarded without real trade skills, industry and construction."[10]

It seems that Imam Al-Ghazali, when giving this comment, was visualizing the present phenomena of our present financial set-up. Many modern economists are also criticizing the present financial system on almost the same lines. During

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[9] Richard Thomson, Apocalypse Roulette, Macmillon, London 1998, Introduction P.x

[10] Al-Ghazali, Ihya'ul'uloom, as cited by Qal'awi, Al-Masarif-al-Islamiyyah p. 52, Syria 1998

the depression of 1930s, this aspect was held by many economists as the basic cause of the crisis. For example, 'Economic Crisis Committee' formed by Southampton Chamber of Commerce, after discussing the basic causes of the problem, had observed:

> "In order to ensure that money performs its true function of operating as a means of exchange and distribution, it is desirable that it should cease to be traded as a commodity."[11]

But even this hindsight was unable to change the mindset of our financial markets. So luring were the temptations of this 'miraculous' market that instead of learning lessons from the past, the players in the field kept inflating the bubble by adding new complexities to it, until it burst in the form of the present crisis. All this happened because money was allowed to be used as a machine producing more money on the basis of interest, and its basic function to act as a medium of exchange was left far too behind.

One may validly ask a very pertinent question here: interest has played a pivotal role in mobilizing the idle money of the people towards trade and industry; if interest is not allowed, how can the savings be utilized for large scale commercial enterprises necessary for the development of the society? The simple answer is that savings may well be attracted in commercial and industrial projects by giving the savers their proper share in the profits of the enterprises that utilized them. The present position is that a very small faction of the society takes advantage of the bulk of the savings of the entire society. Taking the example of my own country (Pakistan), as of June 2008, 26,660 account holders out of 24.9 million (i.e. only 0.1% of total account holders) have utilized Rs.1.95 trillion which is 69% of total loans advanced. (Source: State Bank of Pakistan)

[11] The Report of Economic Crisis Committee, Southampton Chamber of Commerce, 1933, part 3, (iii) para 2.

It means that 0.1% people took advantage of 69% of the wealth deposited by millions of people in the banks. They have passed on a small proportion of their earnings to the savers in the form of interest, whilst making all the rest their own fortunes. Then, the entrepreneurs who used the money of the savers included the interest paid by them in their cost of production raising the price of productions to that extent, and in turn claiming all the interest back from the payees through the increase in prices.

It is neither logical nor equitable that the bulk of the profit generated by the money of millions of savers is secured only by a handful of entrepreneurs, and the depositors whose money generated these profits are given only a small amount of interest, which does not often match the rate of inflation, and is claimed back from them in the form of increased prices. This is one of the basic causes that make the system of distribution unjust, uneven and against the interests of common people. This aspect of interest has been criticized even by many modern economists. For example, James Robertson writes:

> "The pervasive role of interest in the economic system results in the systematic transfer of money from those who have less to those who have more. Again, this transfer of resources from poor to rich has been made shockingly clear by the Third World debt crisis. But it applies universally. It is partly because those who have more money to lend, get more in interest than those who have less; it is partly because those who have less, often have to borrow more; and it is partly because the cost of interest repayments now forms a substantial element in the cost of all goods and services, and the necessary goods and services looms much larger in the finances of the rich. When we look at the money system that way and when we begin to think about how it

> should be redesigned to carry out its functions fairly and efficiently as part of an enabling and conserving economy, the arguments for an interest-free, inflation-free money system for the twenty-first century seems to be very strong."[12]

Not only that some economists have been criticizing interest and establishing financial system on its basis, some of them suggested different alternatives, which were experienced at a small scale, and tried to be repeated on country level, but were ultimately opposed by the banking institutions. The story of these experiments is told in detail by Margrit Kennedy in her book "Interest and Inflation Free Money." Narrating about an interest free model experienced in a small Austrian town in 1932-1933, she writes:

> "When over 300 communities in Austria began to be interested in adopting this model, the Austrian National Bank saw its own monopoly endangered. It intervened against the Town Council."[13]

She has then described an attempt to replace interest with an alternative system proposed by some economists in some parts of USA in 1933, and how it was rejected by the authorities. Without going into the merits of these alternatives, what they clearly show is that there have been several attempts to get rid of interest and the money created by it, but it appears that they were not given due consideration by those in authority.

The equitable way of utilizing the savings of people is that their participation in commercial enterprises is recognized by giving them their proportionate share in the profits generated through their own savings. Of course, in that case they

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[12] James Robertson, Future Wealth: A New Economics for the 21st Century, p. 130, 131, Cassell Publications, London 1990

[13] Margrit Kennedy: Interest and Inflation Free Money, p.39 Philadelphia 1995

will share the loss as well, if an enterprise incurs a loss, and this aspect may create some practical problems in attracting deposits, but the possibilities of loss may be minimized by diversification of the portfolio and by strong regulatory measures. If a bank or financial institution adopts this strategy in isolation, while all others are based on a fixed rate of interest, it will, in fact, pose severe difficulties for that isolated institution to follow the principle of profit sharing, because the blue chip entrepreneurs, having an option to borrow at a lower rate of interest, will not agree to surrender a proportion of profits to the financiers. On the other hand, the enterprises having less potentials of profit may rush to the idea of participation. But if the entire system of financing is based on the concept of participation, and no option is left for interest-based borrowing, then entrepreneurs will have no choice but to make their financiers share their profits on an equitable basis. This will, on the one hand, lead to a broader and equitable distribution of wealth, and on the other hand, it will lessen the burden of liabilities on the financial institutions at times of down-shifts.

This means that major financing techniques should be switched over to an equity-based system instead of the present financial set-up which is based totally on debts.

No doubt, this switch-over has many practical issues to be solved, but once the idea is accepted to be essential for reform, the intellectual competence that was able to invent extremely complex sciences, like ‘financial engineering’ cannot be incapable of solving these issues.

The equity-based system, as suggested, does not mean that there will be no role for debt-based transactions at all. What it means is that debts will no longer remain a predominant source of our economy as they are today. Still they will be needed for necessary consumption requirements, like households, transports

and, at a narrower scale, for commercial needs as well. But all these debts will be fully backed by real assets, leaving no room for expansion of debt-ridden money out of proportion to the real assets or commodities underlying it. To put it in a simple way, there will be no room for interest-based loans; credit will be restricted to sales on deferred payment basis or leases generating rentals on the basis of their actual usufruct. This will eliminate the horrible mismatch between money and the real economy that has turned the whole economy into a bubble which bursts time and again, and brings more disastrous effects at macro level than a bomb blast.

4- Speculation

The fourth point I wish to make is about speculation. Much has been written about it. According to some, it is a bad name to a good act, while others say it is a good name to a bad act. Whenever a shock convulses the market, blame is often directed to speculation; a hue and cry is raised against its evils; speculators are condemned for disturbing the smooth economic flow. Still, speculative transactions go on in the market with full vigor, as if they are inevitable. The reason is that it is not yet settled whether speculation is bad in itself, or there is something else that makes it bad.

According to the Oxford Dictionary, speculation literally means “the act of forming opinions about what has happened or what might happen without knowing all the facts.” In economic terminology, it is defined as “an attempt to profit from changes in market price, thus forgoing current income for a prospective capital gain.” Obviously, no one can claim to have perfect knowledge of what is going to happen in future. The most one can do is to guess about it, using the best possible methods of calculation. In this sense, every investment and every commercial enterprise has an element of speculation. Then, how can it be said that speculation is bad in all its forms? But when

speculation is allowed to play its game in full sway, its evil effects are more destructive than those of gambling in a casino. Then, voices are raised that 'wealth of nations depends on caging this wild beast.' The question is how to draw a line between a benign speculation and a speculation that is akin to gambling.

If speculation is used in a real trade transaction, it cannot pose a problem to the community. When Adam Smith spoke about speculation, he contemplated it in real commercial activities. He defined a speculator as a merchant who:

> "exercises no one regular, established, or well-known branch of business. He is a corn merchant this year, or the tea merchant the year after. He enters into every trade when he foresees that it is likely to be more than commonly profitable, and he quits when he foresees that its profits are likely to return to the level of other traders."[14]

This type of speculative merchant is not a risk for the economic system. He can be harmful, at the most, to his own self, if he takes a wrong decision, unlike the present financial speculators whose activities put the whole system at risk. The reason is that they do not enter into real trade transactions. Most of their deals do not qualify to be termed as real trade. Here we have to examine what trade really means.

5-Necessary Ingredients of Trade

Trade, as generally understood even by a layman, is an activity whereby a person transfers his ownership to another person for a consideration. This concept itself presumes that, when undertaking a trade transaction, the

[14] Cited by Edward Chancellor in preface of "Devil Take The Hindmost" Macmillan, 1999

transferor has the ownership of what he is transferring to the opposite party. The logical result of this concept is that one cannot sell what he does not own.

This is not only a logical requirement of a valid sale, but also a religious imperative in Islamic jurisprudence, which is based on the following instruction of the Holy Prophet Muhammad صلى الله عليه وسلم:

لاتبع ما ليس عندك

Do not sell what you do not have.[15]

Not only this, but the Holy Prophet صلى الله عليه وسلم has also directed that one cannot sell anything unless he has it in his possession.[16] In this regard, the Holy Prophet صلى الله عليه وسلم has established a rule of wide application that one cannot earn a profit by selling a commodity the risk of which he did not assume.[17] Since the risk of the sold commodity is not passed on to the buyer unless he has acquired its physical or constructive possession, the buyer cannot sell it to a third party, unless he has taken its delivery either physically or in a constructive manner, e.g. through one's agent, or through a document that gives him full control over the sold item.

Short Sales:

But most of today's speculative sales are carried out without ownership. Short sales and blank sales are predominant in speculative markets, and that is one of the reasons why their transactions do not qualify as being real trade.

The second aspect of a genuine trade is that the buyer really wishes to have the purchased goods delivered to him, either for his own consumption or for the purpose of onward sale. But in most speculative transactions, delivery of sold goods or stocks is totally out of question. The speculators do not purchase things with the intention of taking their delivery. They are interested only in

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[15] Tirmidhi, Buyu', Book 12, chapter 19, hadith 1232

[16] Sahih-ul-Bukhari, Buyu', Book 34, Ch.55, hadith 2136

[17] Tirmidhi, Book 12, Ch. 19, hadith 1234

fluctuation of the prices, and after undertaking a number of transactions, one after the other, they end up with paying or receiving the difference of prices only, which makes the system closer to gambling, rather than commercial business. Sir Ernest Cassell, a banker, is reported to have said to Edward vii:

> "When I was young, people called me a gambler. As the scale of my operations increased, I became known as a speculator. Now I am called a banker. But I have been doing the same thing all the time."[18]

It is this aspect of speculation that creates problems. Obviously, trade and gambling are two different things with totally different objectives. When trade is mingled with or merged into gambling or semi-gambling, it makes the whole system a hotchpotch, which can never operate in a smooth manner. If speculation is isolated from short sales, blank sales and fictitious transactions ending up with settling price differences only, it cannot cause crises.

Sale of Debts:

Since a genuine sale is meant to transfer the sold item to the buyer, it is logical that the seller should have full control on the sold item to be able to deliver it to the buyer. If it is doubtful whether or not the seller would be able to deliver the goods, even though the goods are owned by the seller, it will be a form of deceiving the buyer. If *A*, for example, owns a cell phone but has lost it somewhere, he cannot sell the phone to *B* even though he has all the hope that he will find it. Such a sale will be valid only if the seller accepts the condition that B will have recourse to him in case the phone is not found within a specific period. The same principle is applicable to the debts *A* owns which are payable to him from his obligors. Since it is not absolutely certain that the obligors will pay their obligations to *A*, as the possibility of their default cannot be ruled out,

[18] Op cit

A should not be allowed to sell these debts to *B*, because it will mean that he is transferring the risk of default to *B*, the buyer. If the obligors default, *B*, the buyer of the debt, will lose all the money he paid to *A*, while *A* has secured the price paid by him. This is one of the reasons why sale of debts is prohibited in Islamic jurisprudence, the other being that normally debts are sold at a discount that entails an element of interest, the prohibition of which has already been discussed.

One can say that if the buyer of debt is agreeable to assume the risk of default, for which he has secured a discount, then it is a transaction effected with the free will of both parties, hence it should be allowed. The answer is that mutual consent does not always justify a transaction. Bribery, for example, is a transaction that is carried out in many cases with mutual consent. Still it cannot be justified on the basis of free will. Islamic jurisprudence has enforced this principle with full force. It firstly safeguards the real interests of both parties, and does not allow a transaction that has an element of injustice to any one of the parties, even though the party itself has agreed to that injustice. Secondly, if an agreement brings harm to the interests of the society, the mutual consent of the parties has no value at all, as in the case of bribery, usury and interest. We have seen in the present financial crisis that the sale of sub-prime loans was one of the basic causes of the problem, which has brought disastrous effects to the society. These transactions, therefore, cannot be justified on the basis of mutual consent alone.

6-Transparency

Transparency is one of the most important requirements of smooth trade. It is emphasized by all reasonable legal systems, but Islamic jurisprudence is very particular about it. The parties of a transaction must have the knowledge of what they are going to do. The buyer must know what he is going to purchase; the

seller must know what price he is going to receive, and when he will be able to claim it. If something is wrapped in a packet, and its contents are unknown to the buyer, its sale is not valid, even though the buyer has agreed to take a chance by purchasing it. Transactions lacking necessary transparency are classified in Islamic jurisprudence as '*Gharar*', and the Holy Prophet Muhammad صلى الله عليه وسلم has prohibited such transactions in clear terms. Moreover, the principle of "*Caveat emptor!*" is not generalized in Islamic jurisprudence as it is taken too general in some other legal systems. If a commodity is defective, the seller is obligated to disclose it to the buyer. The Holy Prophet Muhammad صلى الله عليه وسلم has said:

> "Whoever sells a defective commodity without disclosing it remains in Allah's wrath."

Many transactions in financial markets are not transparent in the sense that they are too complex and complicated to be fully understood by many stakeholders. They are hardly comprehended even by financial experts, let alone common people. Such is the baffling complexity of many financial products that even a person like George Soros, the well known economist of our time, and also a player in financial markets, admitted that he could not understand how they work. Richard Thomson reports in his book on derivatives:

> "George Soros, famous as 'the man who broke the Bank of England' in 1992, summed up the problem of complex derivatives in testimony to the House Banking Committee in April 1994, as the dust settled on mortgage security disaster. 'There are so many of them (complex derivatives), and some of them are so esoteric that the risk involved may not be properly understood even by the most sophisticated investors, <u>and I am supposed to be one</u>. Some of these instruments appear to be

> specifically designed to enable institutional investors to take gambles which they would not otherwise be permitted to take."[19]

Then the same author comments:

> "While there is no doubt that many investors were greedy and took foolish risks, it is also true that thanks to the new financial instruments being offered to them, they frequently did not understand the risks they were taking…To many investors it seemed as though they and the banks now spoke different languages, and no longer understood each other. Few institutions did more to widen the fracture between banks and their customers than Bankers Trust, where the creation of complex derivatives was elevated to an art form and gave the phrase *caveat emptor* a whole new dimension of meaning." [20]

This is the level of transparency in the financial transactions carried out in void on a daily basis!!!

The way markets were operating during the last decade was so alarming that books after books appeared from different segments of economic and financial experts that warned the stakeholders against the possible collapse of the system. [21] Rather in view of this atmosphere of financial markets, it needed no expertise

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[19] Richard Thomson, 'Apocalypse Roulette' London, 1998, p.107
[20] Op cit, P. 107-108
[21] Just to name a few, following books may be referred to:
Paul Krugman: The Return of Depression Economics, Penguin 1999
Jacques S. Jaikaran: Debt Virus, Glenbridge 1992
Peter Warburton: Debt & Delusion, Penguin 1999
Michael Rowbotham, The Grip Of Death, Oxfordshire, 1998
Edward Luttwak, Turbo Capitalism, England 1999
Theodore R. Thoren & Richard F. Warner, The Truth in Money Book, US, 1994
Nicholas Dunbar: Inventing Money, England, 2000
Edward Chancellor, Devil Take the Hindmost, London 1999
Richard Thomson, Apocalypse Roulette, London, 1998
Viviane Forrester, The Economic Horror, Cambridge 1999

in economics to foresee that a crisis is knocking the doors. Even a layman like myself, while delivering a judgment in the Supreme Court of Pakistan had observed:

> "The whole economy of the world has been turned into a balloon that is being inflated on daily basis by new debts and new financial transactions having no nexus whatsoever with the real economy. This big balloon is vulnerable to the market shocks and can burst any time."

But so galloping was the ostensible growth at that time, and so ambitious the initiative of creating money out of money, that players in the field would hardly listen to such alarms, let alone thinking about a meaningful change in the system. After ten years, the balloon really burst, demolishing the whole pyramid of financial instruments and wiping out nearly 45% of global wealth, within a year and half. The entire world is now under a horrible crisis with no visible end.

7-How the Present Crisis emerged

Let us now have a glimpse of how the present crisis emerged to find out its root causes in the light of the principles highlighted above. Up to early 2007, there was a boom in US house-hold credit. Financial institutions raced towards offering house loans on competitive rates of interest, often conceding necessary credit assessment conditions, and creating sub-prime loans. In order to refinance these loans, they were sold to factoring agencies which in turn securitized them for the general public. A mathematical technique was invented to pool risky loans in a package called 'collateralized debt obligations' (CDOs). It was claimed that pooling these debt obligations according to a mathematical magic, erodes their risk to a great extent. Rating agencies were made to believe in this

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Jacques B Gelinas, Freedom From Debt, 1998
John McMurty, The Cancer Stage of Capitalism, US 1999

magical formula to rate them as AAA for which they were allegedly paid triple their usual fees. These securitized debts in the form of CDOs were then sliced up and exported over the world.

The invention of this new methodology of CDOs prompted Wall Street to create new CDOs of low-rated corporate bonds and emerging markets debts alongside the sub-prime mortgage loans. Once CDOs exhausted the available debts, derivatives in the form of credit default swaps (CDS) came into the picture. By 2008, the credit default swaps market had grown to $ 60 trillion, while the entire world's gross domestic product was $60 trillion. During the same time, the size of the derivatives markets overall, (i.e. including Options, Futures, Swaps etc.) had increased from $55 trillion of notional amount in the mid-1990s to an incredible $600 trillion. Since all of these derivatives were unregulated, no one could figure out who held what.

When house prices dropped in these circumstances, the obligors of house loans defaulted and foreclosures were not sufficient to recover the dues, people came to know that the debt-based assets they believed to be safe were not safe. This created a panic, and the whole pyramid of debt-based instruments fell down to the ground. Once panic set in, lending was stopped, companies suffered losses, and share prices faced steep falls. Those who had put millions on stake by speculative transactions in stocks and derivatives were financially ruined, and the whole economic set-up was in the grip of the crisis that is estimated to have wiped out nearly 45% of the wealth of the world. [22]

[22] This description of events is summarized in simple form from different articles, especially from "FIASCO-Blood in the Water on Wall Street" authored by Frank Partnoy, a former Wall Street derivatives trader, and presently a law professor at the University of San Diego.
http://www.npr.org/templates/story/story.php?storyId=102325715

8-Causes and Remedies

If we analyze the root causes of this crisis in the light of the foregoing discussion, it will take no time to realize that there are four basic factors that were bound to create such crises.

1. Diverting 'money' from its basic function to act as a medium of exchange, and making itself an object of trade to an unlimited extent which gave birth to the greed of making money out of money, and turned the whole economy into a balloon of debts over debts.

In order to save the world from such evil consequences, trading in money itself should be stopped. Exchange of different currencies is, of course, inevitable for the purpose of international trade, for which one currency has to be sold for another currency, and a margin of profit for the seller may be inbuilt in the exchange rate. So far as these exchange transactions are carried out for the genuine purpose of cross border trade of real commodities, it cannot pose a problem. The problem arises when exchange of currencies is meant for speculative transactions in money itself. Unfortunately, majority of currency transactions carried out in the market are purely speculative. The volume of global international trade in 2008 is approximately US$ 32 trillion,[23] making an average of $88 billion on daily basis, while the daily turnover in global foreign exchange markets is estimated at $ 3.98 trillion,[24] that is, 45 times more than the volume of international trade. It means that only 2% of trade in currencies is based on the genuine demand for foreign exchange by governments and cross border traders,

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[23] Source: World Trade Organization. http;//stat.wto.org/statisticalprogramWSDBViewData.aspx?Language=E

[24] http;//en.wikipedia.org/wiki/Foreign_exchange_market

while all the rest, that is, 98% of currencies transactions account for nothing but speculation in money prices. Obviously, this artificial use of currencies is the main cause of perpetual fluctuation in their prices that has almost stopped the function of money as a 'store of value'. .

Moreover, one of the essential requirements of restricting money to its basic function is that interest should be abolished from financing activities. Serious thought must be given to reshape our financial system on the basis of equitable participation in productive activities, to minimize debt transactions, and make them subject to the condition that all debts must be backed by real assets, meaning thereby that they should be created by real trade transactions of sale or lease etc.

2. Derivatives were one of the basic causes of the financial problems. Rather, Frank Partony, a former derivatives trader takes it to be the basic cause of the crisis. He observes:

"The mania, panic and crash had many causes. But if you are looking for a single word to use in laying blame for the recent financial catastrophe, there is only one choice: Derivatives."[25]

In order to curb this evil, derivatives must be banned.

3. As we have seen above, the sale of debts was one of the most prominent causes of this crisis.

We have already discussed the logic behind the prohibition of sale of debts. Packaging a large amount of debts in a bundle of CDOs, that was the initial cause of the present crisis, was never possible if sale of debts was disallowed.

[25] "FIASCO- Blood in the Water on Wall Street" Op cit

4. Short sales and blank sales in stocks, commodities and currencies is the basic factor that makes speculation disastrous for the smooth operation of real commercial activities.

Realizing the bad effects of short selling, many regulatory authorities resorted to a temporary ban on shorting. In September 2008, short selling was seen as a contributing factor to undesirable market volatility and subsequently was prohibited by the U.S. Securities and Exchange Commission (SEC) for 799 financial companies for three weeks in an effort to stabilize those companies. At the same time the U.K. Financial Services Authority (FSA) prohibited short selling for 32 financial companies. On September 22, Australia enacted even more extensive measures with a total ban of short selling. Also on September 22, the Spanish market regulator, CNMV, required investors to notify it of any short positions in financial institutions, if they exceed 0.25% of a company's share capital. Naked shorting was also restricted. [26]

Although these were temporary measures, and some regulators restarted the practice after some intervals claiming that the ban was not proved in the interest of the market, it was because the entire outlook of the interests of the market is based on conventional assumptions, which gives far more importance to the immediate profits than to the requirements of a sustainable welfare economy at macro level. Since we are thinking about an overhaul that makes the economy safer, sustainable, and above

[26] Source: http://en.wikipedia.org/wiki/Short_(finance)#Short_selling_restrictions_in_2008a

all, equitable for the entire humankind, we have to change our outlook and should take courageous measures to redesign and reshape the economic system on noble values and just principles, and I hope what is submitted above may help to achieve this objective.

9-A few words about Islamic Financial Institutions

At the end, it is pertinent to say a few words about Islamic Financial Institutions (IFIs) introduced in different countries since the last two decades. They are institutions that claim to run all their activities in accordance with the principles of Shariah (Islamic Law). Many writers have tried to analyze their system of operation in the context of the present crisis. When we search the subject of "Islamic financial institutions and the financial Crisis" on the internet, we find a host of articles, some of them claiming that these institutions are not affected by the crisis at all, while some others claim otherwise.

Leaving exaggerations apart, it is incorrect to claim that they were not affected at all, but it is correct to say that they remained pretty safe from the horrors faced by conventional financial institutions. The reason is obvious. In order to be compliant with Shari'ah (Islamic law) they are bound to remain at a distance from interest, derivatives, short sales and sale of debts. Their debt instruments are also based on selling and leasing real commodities or properties, and therefore all their financing is backed by real assets, which does not create a mismatch between financial transactions and the real economy. Here is a brief account of Islamic finance and how it remained relatively safe, from an article by an AP business writer Emma Vandore. She says :

> “Finance that complies with Shariah, or Islamic law, accounts for around $700 billion of assets and is growing at 10 to 30 percent a year, according to Moody's Investors Service. That's grabbing the attention of governments eager to oil their liquidity-strapped economies with money and deposits from the Islamic world. Islamic finance is concentrated in the Persian Gulf and Muslim parts of Asia such as Indonesia and Malaysia but is spreading into North Africa and Europe.”

About the effects of the crisis on Islamic finance, she has given the following report:

> “A November report by Moody's shows that Islamic banks have been fairly resilient. No Islamic financial institution has acknowledged investing in Bernard Madoff's $50 billion Ponzi scheme, and Saleh Al Tayar, Secretary General of the Franco-Arab Chamber of Commerce, said the $4.9 billion hit taken by Societe Generale SA from what it calls unauthorized trading by Jerome Kerviel couldn't have happened in an Islamic institution. "If global banking practices were based on Islamic practices then we wouldn't be seeing the kind of crisis we are living through now," he said.
>
> Islamic financial institutions work on a philosophy of prohibiting transactions considered immoral and promoting greater social justice by sharing risk and reward. … Interest payments, short selling and contracts considered excessively risky are also prohibited. That rules out some of the products that got Western finance into so much trouble such as subprime mortgages, collateralized debt obligations or credit default swaps.

> Muslim scholars versed also in the arcane rules of finance have approved instruments that parallel many non-Islamic financial products from loans to insurance to bonds. Sukuks are the equivalent of bonds, but instead of selling a debt, the issuer sells a portion of an asset which the buyer is allowed to rent. "Islamic finance does demonstrate good banking behavior that has been perhaps lost over the last 10 years or so," said Neil Miller, head of Islamic finance at Norton Rose and an adviser to the British government. "Islamic banking is saying we are close to our clients and we're only going to do genuine transactions where we can see the asset, we understand the asset, we can make an assessment of that asset: whether it's financing a ship or an aircraft they will go and have a look at the business. It's giving guidance as to what banking should be."[27]

It is, however, an exaggeration to claim that these institutions were not affected by the storm at all. The reason is twofold. Firstly, it is a reality that once an economic crisis grasps an economy, it affects all segments of the society, regardless of whether or not they were responsible for it. Islamic financial institutions are not an exception to this rule. Secondly, these institutions are in the age of their infancy; they are working in an atmosphere dominated by the conventional financial system, which creates many limitations on their full-fledged operation as truly Islamic institutions based on the ideal concepts of participation in risks and rewards. Although their liabilities side is really based on risk and reward sharing, the assets side of their balance sheet is mostly based on trade-related debts, like sale on deffered payment and financial leases, instead of participation. In order to compete with conventional institutions, they often resort to less preferable instruments, and that too using the conventional

[27] Source: http://www.acus.org/new_atlanticist/islamic-banks-surge-thanks-financial-crisis

benchmarks. Moreover, it is difficult to claim that all of them, while entering assets backed debts, really conform to all the conditions prescribed by Shari'ah.

A recent tendency has also contributed to decreasing the level of their compliance; some of them are found in the persuit of imitating each and every product offered by conventional markets, so much so that alternatives are being sought for derivatives, labelled as 'Islamic derivatives'. If this tendency is not stopped, they will lose all their peculiar traits.

To sum up: Be it Islamic finance or conventional finance, all are in the burning need to change their outlook on the basis of stable principles in the interest of humanity at large, and to shun those practices which have brought us to the present disaster. To quote the remarks of the Chairman of 'World Economic Forum' again:

> "Today we have reached a tipping point, which leaves us only one choice: change or face continued decline and misery."

وآخر دعوانا أن الحمد لله رب العالمين والصلوة والسلام على سيدنا محمد خاتم النبيين وعلى آله وأصحابه أجمعين وعلى كل من تبعهم باحسان الى يوم الدين.